

2014 Benchmark Survey of U.S. Direct Investment Abroad (BE-10)

Private Fund Frequently Asked Questions (FAQs)

1. My company/client is a private fund that has foreign investment. Am I required to submit the 2014 Benchmark Survey of U.S. Direct Investment Abroad (BE-10)?

Yes. All U.S. persons, private funds included, that meet the BE-10 reporting requirements should file a BE-10 report.

Per the BE-10 Benchmark Survey of U.S. Direct Investment Abroad Instruction Booklet (located at [BE-10 respondents webpage](#)): A BE-10 report is required of any U.S. person (*) that had a foreign affiliate – that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise – at any time during the U.S. person's 2014 fiscal year.

If a U.S. private fund parent had at least 10 percent voting interest in a foreign business enterprise, including a fund, it must report regardless of whether it had any equity (financial) interest in the foreign fund. An investment manager may be a U.S. parent if it meets these criteria. If a private fund is a limited partnership, BEA considers ownership of voting interest in limited partnerships to be divided equally among the general partners, with the limited partners owning no voting interest, unless otherwise specified in the ownership agreement.

(*)Person (as the term is used in the broad legal sense) means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any state), and any government (including a foreign government, the United States Government, a state or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

2. If it is determined that a private fund must complete the 2014 BE-10 survey, which forms are required?

The same BE-10 filing requirements apply to private funds as to other domestic and foreign entities.

Per the BE-10, Benchmark Survey of U.S. Direct Investment Abroad Instruction Booklet (located at [BE-10 respondents webpage](#)):

Forms comprising a BE-10 report are:

Form BE-10A – Report for U.S. Reporter;

Form BE-10B – Report for majority-owned foreign affiliates of U.S. parents with assets, sales, or net income greater than \$80 million (positive or negative);

Form BE-10C – Report for majority-owned foreign affiliates of U.S. parents with assets, sales, or net income greater than \$25 million (positive or negative), but no one of these items was greater than \$80 million (positive or negative); for minority-owned foreign affiliates of U.S. parents with assets, sales, or net income greater than \$25 million (positive or negative); and for foreign affiliates for which none of assets, sales, or net income was greater than \$25 million (positive or negative), and is a foreign affiliate parent of another foreign affiliate being filed on Form BE-10B or BE-10C;

Form BE-10D – Report for foreign affiliates for which none of assets, sales, or net income was greater than \$25 million (positive or negative), and is not a foreign affiliate parent of another foreign affiliate being filed on Form BE-10B or BE-10C.

Ownership U.S. \$ amount	MAJORITY-OWNED FOREIGN AFFILIATE	MINORITY-OWNED FOREIGN AFFILIATE
At least one of the three items* is greater than \$300 mil. (+ or -).	BE-10B, except Part III	BE-10C
At least one of the three items* is greater than \$80 mil. (+ or -), but no one is greater than \$300 mil. (+ or -),	BE-10B, except Part IV	
At least one of the three items* is greater than \$25 mil. (+ or -), but no one is greater than \$80 mil. (+ or -),	BE-10C**	
All three items* are less than \$25 mil. (+ or -).	BE-10D**	

* Total assets, sales or gross operating revenues excluding sales taxes, net income (loss) after provision for foreign income taxes.

3. How do I determine which U.S.-based private fund entity or manager would be the U.S. Reporter that is required to complete the 2014 BE-10A Report for U.S. Reporter?

A BE-10A is required of any entity, private fund included, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise or fund – at any time during the entity’s 2014 fiscal year. If a U.S. private fund parent had at least 10 percent voting interest in a foreign business enterprise, including a fund, it must report regardless of whether it had any equity (financial) interest in the foreign business enterprise.

Data on Form BE-10A pertain to the fully consolidated U.S. domestic business enterprise for the U.S. Reporter’s 2014 fiscal year. See Instruction Booklet, Part I.B.1.b., for the definition of a fully consolidated U.S. domestic business enterprise. If a U.S. investment manager has majority voting interest in several U.S. funds and one or more of these funds meet the filing requirements for the BE-10 survey, the U.S. investment manager and the majority-owned U.S. funds must be consolidated on one BE-10A form. However, if a U.S. investment manager manages or advises, but does not have majority voting interest in, several U.S. funds, these entities should each separately file the BE-10A if they meet the filing requirements for the BE-10 survey.

4. How do I complete a survey for a foreign affiliate entity if it is a private fund versus an operating company? The 2014 BE-10 survey forms may have numerous questions which do not appear to apply to my domestic and foreign funds/entities. How do I proceed?

The BE-10A/B/C/D forms are intended to cover many different types of entities, including traditional operating companies, holding companies, funds (feeder, master, and other funds), etc. Not all questions on the forms may apply to your domestic or foreign entities. Respondents may mark questions “n.a.” if they do not apply to their entities and provide explanations about the nature of the entities and their operations in one of the “Remarks” areas on the forms.

5. Does the 2014 BE-10 reporting overlap with the Treasury International Capital (TIC) reporting for private funds?

No, it does not. As a benchmark survey, BE-10 covers the data collected by BE-577, the Quarterly Survey of U.S. Direct Investment Abroad, on direct investment transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents. TIC, on the other hand, collects data on international portfolio flows and positions between U.S.-owned foreign business enterprises and their U.S. parents. The BE-10 and TIC

surveys share the same definition for direct investment and the data collected complement each other. In addition, BE-10 covers data collected by BE-11, the Annual Survey of U.S. Direct Investment Abroad, on the financial structure and operations of U.S. parents and their foreign affiliates. TIC does not collect this type of data.

6. Are the data reported on the BE-10 survey kept confidential?

Yes. The information included in the completed BE-10 survey forms may be used only for analytical and statistical purposes, and access to the information shall be available only to officials and employees of agencies designated by the President to perform functions under the International Investment and Trade in Services Survey Act (IITSSA; see Instruction Booklet, Part VI.G., for more information).

In addition, Section 3104(c) of Title 22 of the U.S. Code prohibits the disclosure of reports provided pursuant to the IITSSA. Courts have held that this Section of Title 22 precludes the disclosure of IITSSA reports in response to Freedom of Information Act requests (See, e.g., *Young Conservative Foundation, Inc. v. U.S. Dept. of Commerce*, 1987 WL 9244 (D.D.C. Mar. 25, 1987) (No. 85-3982)).

7. How do I contact BEA if I have specific questions about how to report my U.S. and foreign-based entities (private funds, operating companies, etc.) on the 2014 BE-10 survey?

If you require additional assistance or need further clarification on any matter related to the BE-10, Benchmark Survey of U.S. Direct Investment Abroad, as it applies to your private fund and/or its foreign entities, please call us at 202-606-5566.